



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 28 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Walker
Summit Processors, Inc.
200 East Alton Avenue
East Alton, Illinois 62024

Re: Summit Processors, Inc., East Alton, Illinois

Dear Mr. Walker,

Enclosed is the Administrative Consent Order (ACO) entered into by Summit Processors, Inc. (Summit) and the United States Environmental Protection Agency. Please retain this copy for your records.

The terms of this ACO became effective on the date of signature by the Director of the Air and Radiation Division, and are binding for two years from the effective date. Failure to comply with this ACO may subject Summit to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

Should you have any questions, please contact Mr. Tom Williams, Associate Regional Counsel, at (312) 886-0814, or Ms. Natalie Topinka, of my staff, at (312) 886-3853.

Sincerely,

A handwritten signature in cursive script that reads "Nathan M. Frank".

Nathan Frank, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosures: ACO

cc: Sue A. Schultz, Esq.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA – 5-14-113(a)-IL-13
)	Proceeding Under Section
Summit Processors, Inc.)	113(a)(3) of the Clean Air Act,
East Alton, Illinois)	42 U.S.C. §§ 7413(a)(3)
)	
)	
)	

Administrative Consent Order

1. The Director of the Air and Radiation Division (Director), U.S. Environmental Protection Agency, Region 5 (EPA), is entering into this Administrative Consent Order (Order) with Summit Processors, Inc. (Summit), 200 East Alton Avenue, East Alton, Illinois, under Section 113(a)(3) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3).

I. Statutory and Regulatory Background

Stratospheric Ozone

2. Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of EPA to issue an order requiring compliance with Subchapter VI of the Act to any person who has violated or is violating any requirement of Subchapter VI. The Administrator of EPA has delegated her order authority to the Regional Administrator of EPA, Region 5 pursuant to EPA Headquarters Delegation 7-6-A. The Regional Administrator of EPA, Region 5, has delegated her order authority to the Director pursuant to EPA Region 5 Delegation 7-6-A.

3. Subchapter VI of the Act, 42 U.S.C. § 7671, provides for the protection of stratospheric ozone. Section 608(b) of the Act, 42 U.S.C. § 7671g(b), provides EPA with

the authority to regulate the safe disposal of class I and II substances. Class I and II substances include refrigerants containing chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). EPA promulgated such regulations covering the safe disposal of CFCs and HCFCs from small appliances and motor vehicle air conditioners at 58 Fed. Reg. 28660 (May 14, 1993). These regulations for protection of the stratospheric ozone, recycling and emissions reduction are found in 40 C.F.R. Part 82, Subpart F.

4. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances and motor vehicle air conditioners (MVACs) must either recover the refrigerant in accordance with specific procedures or verify with signed statements that the refrigerant was properly recovered prior to receipt of the small appliance or MVAC. *See* 40 C.F.R. § 82.156(f). If verification statements are used then the scrap recycler must notify the suppliers of the small appliance or MVAC of the need to properly recover the refrigerant. *See* 40 C.F.R. § 82.156(f)(3). The scrap recycler must keep verification statements on-site for a minimum of three years. *See* 40 C.F.R. § 82.166(i) and (m).

5. EPA's regulations for the protection of the stratospheric ozone, recycling and emissions reduction define a "small appliance" as any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five pounds or less of a class I or class II substance used as a refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air

conditioners and packaged terminal air heat pumps), dehumidifiers, under the counter ice makers, vending machines, and drinking water coolers. *See* 40 C.F.R. § 82.152.

6. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define MVACs as mechanical vapor compression refrigeration equipment used to cool the driver's or passenger's compartment of any motor vehicle. *See* 40 C.F.R. §§ 82.32 and 82.152.

Secondary Aluminum Production

7. The Administrator of EPA may promulgate regulations establishing National Emission Standards for Hazardous Air Pollutants (NESHAP) under Section 112 of the Act, 42 U.S.C. § 7412.

8. Under Section 112 of the Act, the Administrator promulgated the NESHAP for Secondary Aluminum Production at 40 C.F.R. Part 63, Subpart RRR (Subpart RRR). The NESHAP for Secondary Aluminum Production applies to sweat furnaces, as defined in Subpart RRR.

9. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating the NESHAP regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

10. 40 C.F.R. § 63.1500 provides that the Subpart RRR regulations are applicable to any person who owns or operates a secondary aluminum production facility, as defined in § 63.1503.

11. Subpart RRR at 40 C.F.R. § 63.1500(c)(3) states that the requirements of Subpart RRR pertaining to dioxin and furan (D/F) emissions and associated operating,

monitoring, reporting and recordkeeping requirements apply to certain affected sources located at a secondary aluminum production facility that is an area source of Hazardous Air Pollutants (HAP). Among the affected sources covered by the D/F Subpart RRR requirements are all new and existing "sweat furnaces."

12. "Sweat furnace" is defined at 40 C.F.R. § 63.1503 as "a furnace used exclusively to reclaim aluminum from scrap that contains substantial quantities of iron by using heat to separate the low-melting point aluminum from the scrap while the higher melting point iron remains in solid form."

13. Subpart RRR, at 40 C.F.R. § 1505(f)(2), provides that the owner or operator of a sweat furnace at a secondary aluminum production facility must not discharge or cause to be discharged into the atmosphere emissions in excess of 0.80 nanograms of D/F TEQ per dry standard cubic meter (3.5×10^{-10} grams per dry standard cubic feet) at 11 percent oxygen. If the sweat furnace is not equipped with an afterburner, the owner or operator of the sweat furnace is required to conduct a performance test to demonstrate compliance with these emission limits, pursuant to 40 C.F.R. § 63.1511(b).

II. Findings

Stratospheric Ozone

14. Summit owns and operates a scrap metal recycling facility at 200 East Alton Avenue, East Alton, Illinois. Summit is a corporation organized and doing business in Illinois. Summit is a "person" as defined by 40 C.F.R. § 82.152.

15. Summit is a person who takes the final step in the disposal process of small appliances and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

16. EPA found that Summit has accepted small appliances and MVACs without recovering refrigerant. EPA further found that Summit has not obtained verification statements that met the requirements of 40 C.F.R. § 82.156(f) for these small appliances and MVACs.

17. On January 17, 2013, EPA issued to Summit a Finding of Violation finding, *inter alia*, that it violated 40 C.F.R. § 82.156(f) because it did not recover refrigerant from small appliances and MVACs and did not obtain proper verification statements.

Secondary Aluminum Production

18. On August 24, 2012, EPA inspected the facility for compliance with the CAA. At the time of the inspection, the facility included one aluminum sweat furnace.

19. On October 16, 2012, under Section 114 of the CAA, 42 U.S.C. § 7414, EPA sent a Request for Information to Summit seeking information about the facility's compliance with the CAA. On November 20, 2012, Summit submitted a response to EPA indicating that no testing for D/F emissions had been conducted on the sweat furnace.

20. At the time of the inspection, the facility was a secondary aluminum production facility, as that term is defined in Subpart RRR, and is an area source of HAPs.

21. As the owner or operator of a secondary aluminum production facility that is an area source of HAPs, Summit was subject to the NESHAP at 40 C.F.R. Part 63, Subparts A and RRR, and the sweat furnace at the facility was subject to sweat furnace requirements under Subpart RRR.

22. On January 17, 2013, EPA issued to Summit a Finding of Violation alleging, *inter alia*, that it 40 C.F.R. § 63.1511(b) because it failed to conduct a performance test to demonstrate compliance with the D/F emission limits of 40 C.F.R. § 1505(f)(2).

23. Summit has had an opportunity to confer with EPA concerning the violations referenced in paragraphs 14 through 17 and 15 through 22.

III. Compliance Program

Stratospheric Ozone

24. Summit must comply with 40 C.F.R. Part 82, Subpart F. Additionally, Summit must take the following actions by the dates specified and maintain compliance with paragraphs 25 through 33, below, for two years after the effective date of this Order for any small appliance or MVAC that it receives at its facility.

25. By the effective date of this Order, Summit must no longer accept small appliances or MVACs with cut or dismantled refrigerant lines unless its supplier can provide the certification identified in paragraph 26 below.

26. By the effective date of this Order, Summit does not accept appliances from parties other than commercial entities or EPA-certified refrigerant recovery technicians. Any appliances that Summit accepts from commercial entities or EPA-certified technicians must have had the refrigerant properly recovered. By the effective date of this Order, Summit must ensure its commercial entity or EPA-certified technician suppliers use the verification statement included as Attachment 1 to this Order, or the refrigerant recovery contract included as Attachment 2 to this Order, as appropriate.

27. If Summit decides to accept MVACs or small appliances other than as described above in paragraph 26, during the duration of this Order, Summit will notify EPA at the address provided in paragraph 35 that it has begun accepting small appliances or MVACs within five (5) business days of doing so. At that time, Summit shall also provide documentation of purchase of and training on refrigerant recovery equipment required by paragraphs 30 and 31 of this Order, or documentation that it has contracted the services of a trained individual to recover refrigerant from small appliances or MVACs received by Summit. If at some later time during the duration of this Order Summit decides to no longer accept small appliances or MVACs for business reasons, Summit will notify EPA at the address provided in paragraph 35 within five (5) business days.

28. If Summit accepts for recycling small appliances or MVACs, other than as described above in paragraphs 26 and 27, it must notify its suppliers in writing prior to or at the same time Summit begins accepting small appliances or MVACs that it will not accept small appliances or MVACs with cut or dismantled refrigerant lines unless the suppliers can certify that the refrigerant was properly evacuated prior to cutting or dismantling the refrigerant lines. Summit must ensure its suppliers complete the verification statement included as Attachment 1 to this Order, or the refrigerant recovery contract included as Attachment 2, as appropriate, if they assert that refrigerant was previously evacuated.

29. If Summit accepts for recycling small appliances or MVACs other than as described above in paragraphs 26 and 28 it must notify its suppliers in writing prior to or at the same time Summit begins accepting small appliances or MVACs that it will

provide refrigerant recovery services for the appliances or MVACs accepted. Summit may satisfy the notice requirements of this paragraph and paragraph 28 with a sign that is prominently displayed at its weigh station during the period of time that this Order is effective.

30. If Summit accepts for recycling small appliances or MVACs other than as described above in paragraphs 26 and 28, it must either purchase equipment to recover refrigerant from the small appliances and MVACs prior to the time Summit begins accepting appliances or MVACs and use the equipment to recover refrigerant from small appliances or MVACs, or contract the services of a trained individual to recover refrigerant from the small appliances or MVACs it receives.

31. If Summit accepts for recycling small appliances or MVACs other than as described above in paragraphs 26 and 28, it must have the refrigerant recovered by a properly trained individual. If that individual is an employee of Summit, then Summit will ensure that the individual is properly trained to use the equipment identified in paragraph 30 prior to the time Summit begins accepting small appliances or MVACs other than as described above in paragraphs 26 and 28.

32. If Summit accepts for recycling small appliances or MVACs other than as described above in paragraphs 26 and 28, it must use the refrigerant recovery log included as Attachment 3. Summit will retain copies of receipts for all refrigerant it collects and sends to another company for reclamation.

33. Within 30 days after the one-hundred and eightieth (180th) day following this Order's effective date, and within 30 days after the passage of each of the next three consecutive six-month periods thereafter, Summit must submit to EPA (i) a copy of its

refrigerant recovery log (including the information required in paragraph 32) and (ii) any verification statements received pursuant to paragraph 28 above from the preceding six month reporting period.

Secondary Aluminum Processing

34. By the effective date of this Order, Summit must certify that the sweat furnace has been permanently removed from operation and is therefore in compliance with all Subpart RRR requirements.

IV. General Provisions

35. Summit must send all reports, electronically or by hard copy, required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

36. Summit and EPA agree to the terms of this Order.

37. Summit will not contest the authority of EPA and Summit to enter into this agreement. Summit waives any further opportunity to confer or have a hearing.

38. This Order does not affect Summit's responsibility to comply with other federal, state, and local laws.

39. This Order does not restrict EPA's authority to enforce any requirement of the Act or its implementing regulations; provided that the matters addressed herein will only be enforced in accordance with this Order.

40. Failure to comply with this Order may subject Summit to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. §7413, and 40 C.F.R. Part 19.

41. Summit may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Summit fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

42. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. If submitted in hard copy, to aid in our electronic record keeping efforts, please provide your response(s) to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

43. The terms of this Order are binding on Summit, its assignees, and successors, and on EPA. Summit must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA that it has given the notice.

44. This Order has been accepted by Summit for settlement purposes and EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action consistent with this Order.

45. This Order is effective on the date of signature by the Director. This Order will terminate two years from the effective date, provided that Summit has complied with all terms of the Order throughout its duration.

46. Each person signing this Order certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

47. Each party agrees to pay its own costs and attorneys' fees in this action.

48. This Order constitutes the entire agreement between the parties.

49. By execution of this Order, Summit does not admit any liability for the acts complained of, and reserves the right to assert all valid defenses against EPA in any future proceeding under Sections 113 (b) or (d) of the Act, 42 U. S. C. §§ 7413 (b) and (d).

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In the Matter of
Summit Processors, Inc.
East Alton, Illinois

AGREED AS STATED ABOVE:

SUMMIT PROCESSORS

Date: 4-22-14

By: 

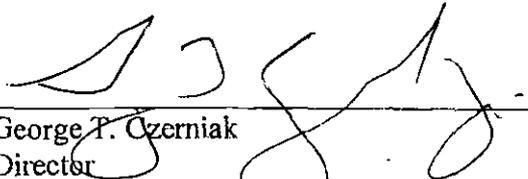
Name: Robert Dabbs

Title: President

AGREED AND SO ORDERED:

U.S. ENVIRONMENTAL PROTECTION AGENCY

5/23/14
Date


George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent Administrative Consent Order EPA-5-14-113(a)-IL-13 by Certified Mail, Return Receipt Requested, to:

John Walker
Summit Processors, Inc.
200 East Alton Avenue
East Alton, Illinois 62024

With a copy to:

Sue A. Schultz
Sandberg Phoenix & von Gontard P.C.
784 Wall Street – Suite 100
O’Fallon, Illinois 62269

Ray Pilapil, Manager
Bureau of Air, Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794

On the 4 day of June 2014.



Loretta Shaffer
Administrative Program Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7676 3462